

Protest

App. F. IX-4

Previous References

✓
1933.

(Law)

File No. 62-33

Serial Nos. 142

Later References

Law Dep 50-34

Preserve

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(10)

GENERAL AND REVENUE SECRETARIAT

Serial Nos. *Two.*

Part B for Nov^r 33

SUBJECT.

*Re. disputed claims of the Sri Vyasarayaswami
& Byragi mutts to certain sites at Melkote.*

2) 2

In Muz. Com^r

No. P 2286 of 17-11-33

*forwards a copy of the Cont. Advocate's
opinion in the matter.*

Dr. Abdul Aziz
23-11-33

Serial
No.

From

The Mag. Commr.

No. 217/3132 dated 16th Aug 1933
legal opinion in the matter of
disputed claims of the Sri Vyasaraya
Mutt and Sri Byrangi Mutt to
Sera as Melkore.

'N'

Facts of the Case are fully narrated in the
S.D.O.'s report dated 15.2.31. The relative merits
of the claims put forth by the 2 mutts to
Sera as Melkore are also discussed there to
considerable extent. If the facts reported
are correct, Vyasarayamuni Mutt seems to be
a good case. But the S.D.O.'s report dated
15.2.31 submitted ~~deeds~~ relies on the
probabilities of the Case and gives more
to the documents produced by the Byrangi Mutt.

There are no documents to show
the ^{origination} ~~belong~~ belongs to a private person, and
Municipality has resumed it and granted
the Mutt. Govt. Ad. may also be consulted in the

SD
2/8.

Forwarded with compliments to
the Govt Advocate for favour of opinion
whether it is advisable in the
circumstances of this case to take legal
proceedings on behalf of the Sri Vyasaraya
Mutt for recovery of the properties in
question.

MPorathao

22/8/33

From 147/33-34
8/23/8/33

Returned with compliments.

The question for consideration is whether the two sites in question belong to the Sri Vyasarayya Mutt or to the Byragi Mutt and whether this is a fit case for taking legal proceedings on behalf of the Sri Vyasarayya Mutt for their recovery.

One of these two sites appeared to have been in the occupation of one Dharmapuri Venkatayya and the Hiduvalidar for the other site was mentioned as Government. In the year 1905-06 the Melkote Municipality prepared a list of vacant sites. Dharmapuri Venkatayya's legal representatives not being known, the site was classed as a vacant site and given No.217. The other site was given No.218. The Byragi Mutt was not shown in the registers as the owner of these sites.

On 27-12-1911, the municipal Council of Melkote granted these two sites to the Vyasarayya Mutt on their application and in the year 1919 one Krishnamurthy Rao was given an endorsement by the municipality that he should keep the place clean and use it as a flower-garden on behalf of the Mutt until the Mutt erected a building thereon.

On an application by one Narasimha murthy on behalf of the Vyasarayya Mutt, the municipality on 17-11-1923 granted a license to him for constructing a compound wall around the site. The Mahant of the Byragi Mutt appears to have contested the matter and his contentions appear to have been overruled. It is noticeable that the Mahant produced no documents whatever at that time. But no compound wall was

however

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27.10.33

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31 OCT. 1933
No. 119

General and Revenue
Secretariat

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No.

however raised by the Vyasaraya Mutt. But in the year 1929, the Mahant appears to have trespassed upon the property and enclosed the sites with a compound wall and was attempting to construct a choultry thereon. Thereupon on 8-11-1929, the said Narasimha Murthy and another petitioned to the Deputy Commissioner, Mysore complaining against the encroachment and it was then that these proceedings started. Mr. Appaji Gowda the then Sub Division Officer, submitted a report in June 1931, and the present Sub Division Officer submitted his report in June 1933. They do not agree.

In the first place it is clear that the sites in dispute are the sites bearing Nos. 217 and 218, and they are given these numbers in the Municipal accounts. Mr. M.I. Sheriff's doubts to the contrary do not seem to be correct. vide report of vice President of the Municipality dated 10-2-1931. Even the boundaries of the two sites as mentioned in the vacant sites list tally with the boundaries in the sketch attached to Mr. M.I. Sheriff's report. It cannot also be disputed that on 27-12-1911 the land was resolved by the Municipal Council to be given over to the Vyasaraya Mutt. Again in 1919 one Krishnamurthy Rao was asked by the Municipality to look after the sites on behalf of the Vyasaraya Mutt until a structure was put up.

The report of the Vice President and the Petition of the Vyasaraya Mutt despatches dated 8-11-1929, show that it was only in 1929 that the Mahant trespassed upon the property. When the Amildar called upon the Mahant to explain how he entered upon the property —

and to

NOTE—Contn. Sheet.

and to produce references, the Mahant stated that the references were with one Mohan Singh and refused to give any statement in writing. It is interesting to note that the same Mohan Singh appears to have filed a - Darakhast Application for the identical lands in 1923 to which, on 12-12-1923 the municipality seems to have replied that they were the property of the Vyasaraya Mutt - Vide Petition of Narasimha Murtiachar to the Deputy Commissioner dated 8-11-1929.

There is very little documentary evidence for the Mahant. He relies on two documents - one is a Saguvali Chit alleged to have been granted by one -- Murari Rao to one of the Mahant's predecessors in office. The extent is not given in the Saguvali Chit and the boundaries do not tally with the boundaries of the sites in question. (Cf. Vice President's report). The other is an order of the Municipality dated 3-5-1914 that the sale of the usufruct of a soap-nut bush was cancelled as it belonged to the then Mahant. This order is also not of much use as the order neither gives the boundaries nor the extent of land alleged to belong to the Mahant. The Mahant relies ^{also} upon a notice dated 18-9-1913 by the Municipality calling upon him to keep his vacant site clean and tidy. Even this document does not expressly refer to the sites in question.

Moreover in para 12 of the report of the vice President he says there was no soap-nut tree~~x~~ on the sites in question and the Mahant's contention that the proceedings relating to the cancellation of the sale of the soap-nut tree refer to the sites in question, is therefore unrounded. The validity of the grant does

not

*For Mr. 52/58-94
A. S. 2. 8. 2*

Serial
No.

does not arise for consideration as the site was -
treated as theirs by the Municipality from 1905-06 and
as the representatives of venkatayya are not question-
ing it. moreover it was never considered to belong
to the Byragi Mutt.

In the year 1905-06 when the vacant sites list
was prepared, the mahant did not urge his claim to the
land at all though it was proclaimed by tom tom that
all claims if any should be put forward, vide para 13
of the vice President's report.

It is therefore fairly clear that the Mahant has
no right to the sites in question and that by virtue of
the grant they belong to the Vyasaraya Mutt and legal
proceedings may, I think, be taken on behalf of the
latter Mutt.

M. Magaswami
Government Advocate.
Sub 30.10.1933

CSN.

*Deft forwarding the above opinion
to the Muz len*

1/11/33

Deft Sub? for appl

1/11/33

for perusal before issue

Gen Secy

4 November

1/12

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GENERAL SECRETARY
2 - NOV. 1933
No.

Office of the
Second Member of Council.
13 NOV
30017

NOTE—Contn. Shor.

15 NOV

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809

File No.

of 193

General and Revenue
Secretariat

To,

The Muz. Commr.

no. P. 2006 d. 17.11.33 forwarding a
copy of the Govt. AD's opinion in the matter.

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m/s/p/3

M. C. 13]

No.

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P 833
OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE.

Dated, Bangalore, *11th* August.....1933.

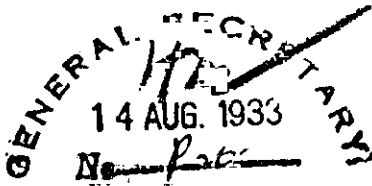
FROM

S. HIRJANNAIYA, Esq., M.A., B.L.,
Muzrai Commissioner in Mysore.

To

The Secretary to the Government of His Highness
the Maharaja of Mysore.

General.....Department.



SIR,

MP
we 8
I have the honor to forward herewith in original for reference and return correspondence ending with letter No.H.921/30 dated 25th July 1933 together with the connected file of vernacular papers received from the Deputy Commissioner, Mysore District, submitting a report about the disputed claims of the Sri Vyasarayasa swamy and Sri Pyragi Mutts to certain sites at Melkote on which the Mahant of the latter intends to build a Chattram. The facts ^{are} of the case explained in sufficient detail in the reports submitted by the Sub Division Officers (Messrs. Appaji Gowda and M.I. Sheriff) contained in the records. For reasons explained both these officers as well as the Deputy Commissioner have come to the conclusion that it does not seem expedient to take action on the Revenue or Municipal side to oust the Byragi Mutt authorities from possession and that if the Vyasarayaswami Mutt have a case they may take the matter to a Civil Court having jurisdiction.

2. The evidentiary value of the documents upon which the claim of the Pyragi Mutt is based is fully discussed in the reports referred to above. The Vyasarayaswami Mutt has no documents in its possession and the claim is based upon the grant of the sites made by the Municipality in 1911. The Sub Division Officer (Mr. Mahomed Ismail Sheriff) while doubting whether the sites now in Takarar are the identical ones which were granted to the Sri Vyasarayaswami Mutt by the Municipality, has come to the conclusion

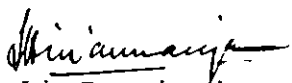
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that even if the grant is made by the Municipal Council, it is an invalid grant as the Municipality cannot resume a site belonging to a private person and then grant it to others. I request you to kindly favour me with the legal opinion as to whether there is a case in favour of the Vyasarayawami Mutt, and whether it is advisable to file a suit on behalf of the Mutt whose properties in the Mysore State are under Government management.

I have the honor to be,

Sir,

Your most obedient servant,


Muzrai Commissioner.

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GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No.

P. 2286
Ever file & a copy

Dated, Bangalore, 16th November 1933.,

17

From

The General Secretary to the Government of His Highness
the Maharaja of Mysore.

To

The Muzrai Commissioner in Mysore,

Bangalore.

Sir,

With reference to your letter No. 17/31-32 dated 14th August 1933 soliciting legal opinion in the matter of disputed claims of the Sri Vyasarayaswami and Byragi Mutts to certain sites at Melkote, I am directed to enclose herewith a copy of the Government Advocate's opinion in the matter and to request that necessary further action may kindly be taken accordingly.

The entire file of records sent is herewith returned.

I have the honour to be,

Sir,

Your most obedient servant,

me.

General Secretary to Government.

150

G. R. S. App F. G. 3.

GENERAL AND REVENUE
SECRETARIAT.

(Continuation sheet draft form.)

Letter 612-330-214

No P 2286/En 2 file 7
a copy

To, 17/11/33

The Huz. Commr

Sir,

with reference to.

Your letter no. C. 17/31-32 dated
14th Aug 1933 — soliciting legal
opinion in the matter of
disputed claims of the Sri

Vyasaraya Swami and Byragi Mutt
to certain sites at Melkote

I am directed to ~~respect~~
enclose herewith a copy of
the Govt. Advocate's opinion in
the matter and to request
that necessary further action
may kindly be taken accordingly

The entire file of
records sent is herewith returned

I have etc

17/11/33 for General Secy

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